



Rep. Brandon W. Phelps

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09800SB2266ham003

LRB098 10244 AMC 46122 a

1 AMENDMENT TO SENATE BILL 2266

2 AMENDMENT NO. _____. Amend Senate Bill 2266 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by adding
5 Sections 5-111 and 9-220.3 as follows:

6 (220 ILCS 5/5-111 new)

7 Sec. 5-111. Natural gas performance reporting.

8 (a) The General Assembly recognizes that for well over a
9 century Illinois residents and businesses have relied on the
10 natural gas utility system. The General Assembly finds that in
11 order for a natural gas utility to provide safe, reliable, and
12 affordable service to the State's current and future utility
13 customers, a utility must refurbish, rebuild, modernize, and
14 expand its infrastructure and adequately train its workforce on
15 appropriate operations procedures and policies designed to
16 effectively maintain its infrastructure.

1 (b) A natural gas public utility shall report annually to
2 the Commission the following information, compiled on a
3 calendar-year basis, beginning with the first report on April
4 1, 2014:

5 (1) the number of emergency calls with response times
6 exceeding both 30 minutes and 60 minutes and the number of
7 emergency calls in which the utility stopped the flow of
8 natural gas on the system or appropriately vented natural
9 gas in a time exceeding both 60 minutes and 90 minutes;

10 (2) the number of incidents of damage per thousand gas
11 facility locate requests to the utility's pipeline
12 facilities resulting from utility error and the number of
13 incidents of damage per thousand gas facility locate
14 requests to the utility's pipeline facilities resulting
15 from the fault of third parties;

16 (3) the number of scheduled cathodic protection
17 readings below -0.850 volts;

18 (4) the number of service lines that were inactive for
19 over 3 years and not disconnected from a source of supply;

20 (5) the number of difficult to locate services
21 replaced;

22 (6) the number of remotely-readable cathodic
23 protection devices;

24 (7) the miles of main and numbers of services replaced
25 that were constructed of cast iron, wrought iron, ductile
26 iron, unprotected coated steel, unprotected bare steel,

1 mechanically coupled steel, copper, Cellulose Acetate
2 Butyrate (CAB) plastic, pre-1973 DuPont Aldyl "A"
3 polyethylene, PVC, or other types of materials identified
4 by a State or federal governmental agency as being prone to
5 leakage;

6 (8) the number of miles of transmission facilities on
7 which maximum allowable operating pressures have been
8 established;

9 (9) the number of miles of transmission facilities
10 equipped with remotely controlled shut-off valve
11 capability; and

12 (10) the value in dollars of contracts in force with
13 minority-owned, female-owned, and qualified
14 service-disabled veteran-owned businesses.

15 (c) Reports required under this Section shall be submitted
16 to the Commission by April 1 of each year. Reports shall be
17 verified in the same manner as Form 21 ILCC and contain the
18 information specified in subsection (b) of this Section for the
19 preceding calendar year. The reports shall further identify the
20 number of jobs attributable to each of the reporting
21 requirements in (b)(1) through (b)(10) of this Section.
22 Following the submission of a utility's initial report,
23 subsequent reports by the utility shall state year-over-year
24 changes in the information being reported. The Commission shall
25 post the reports on the public portion of its web site.

26 (d) A natural gas utility shall submit an annual plan

1 specifying its goals for each of the items identified in
2 subsection (b) of this Section, and such utility is expected to
3 show reasonable and continuing progress in improving its
4 performance under the criteria identified in subsection (b) of
5 this Section. If the Commission finds, after notice and
6 hearing, that a utility has failed to show progressive
7 improvement in its performance under those criteria, the
8 Commission may require the natural gas utility to submit a
9 remediation plan for the criteria identified in subsection (b)
10 of this Section designed to improve the utility's performance.

11 (e) The Commission may adopt rules to implement the
12 requirements of this Section.

13 (220 ILCS 5/9-220.3 new)

14 Sec. 9-220.3. Natural gas surcharges authorized.

15 (a) Tariff.

16 (1) Pursuant to Section 9-201 of this Act, a natural
17 gas utility serving more than 700,000 customers may file a
18 tariff for a surcharge which adjusts rates and charges to
19 provide for recovery of costs associated with investments
20 in qualifying infrastructure plant, independent of any
21 other matters related to the utility's revenue
22 requirement.

23 (2) Within 30 days after the effective date of this
24 amendatory Act of the 98th General Assembly, the Commission
25 shall adopt emergency rules to implement the provisions of

1 this amendatory Act of the 98th General Assembly. The
2 utility may file with the Commission tariffs implementing
3 the provisions of this amendatory Act of the 98th General
4 Assembly after the effective date of the emergency rules
5 authorized by subsection (i).

6 (3) The Commission shall issue an order approving, or
7 approving with modification to ensure compliance with this
8 Section, the tariff no later than 120 days after such
9 filing of the tariffs filed pursuant to this Section. The
10 utility shall have 7 days following the date of service of
11 the order to notify the Commission in writing whether it
12 will accept any modifications so identified in the order or
13 whether it has elected not to proceed with the tariff. If
14 the order includes no modifications or if the utility
15 notifies the Commission that it will accept such
16 modifications, the tariff shall take effect on the first
17 day of the calendar year in which the Commission issues the
18 order, subject to petitions for rehearing and appellate
19 procedures. After the tariff takes effect, the utility may,
20 upon 10 days' notice to the Commission, file to withdraw
21 the tariff at any time, and the Commission shall approve
22 such filing without suspension or hearing, subject to a
23 final reconciliation as provided in subsection (e) of this
24 Section.

25 (4) When a natural gas utility withdraws the surcharge
26 tariff, the utility shall not recover any additional

1 charges through the surcharge approved pursuant to this
2 Section, subject to the resolution of the final
3 reconciliation pursuant to subsection (e) of this Section.
4 The utility's qualifying infrastructure investment net of
5 accumulated depreciation may be transferred to the natural
6 gas utility's rate base in the utility's next general rate
7 case. The utility's delivery base rates in effect upon
8 withdrawal of the surcharge tariff shall not be adjusted at
9 the time the surcharge tariff is withdrawn.

10 (5) A natural gas utility that is subject to its
11 delivery base rates being fixed at their current rates
12 pursuant to a Commission order entered in Docket No.
13 11-0046, notwithstanding the effective date of its tariff
14 authorized pursuant to this Section, shall reflect in a
15 tariff surcharge only those projects placed in service
16 after the fixed rate period of the merger agreement has
17 expired by its terms.

18 (b) For purposes of this Section, "qualifying
19 infrastructure plant" includes only plant additions placed in
20 service not reflected in the rate base used to establish the
21 utility's delivery base rates. "Costs associated with
22 investments in qualifying infrastructure plant" shall include
23 a return on qualifying infrastructure plant and recovery of
24 depreciation and amortization expense on qualifying
25 infrastructure plant, net of the depreciation included in the
26 utility's base rates on any plant retired in conjunction with

1 the installation of the qualifying infrastructure plant.
2 Collectively the "qualifying infrastructure plant" and "costs
3 associated with investments in qualifying infrastructure
4 plant" are referred to as the "qualifying infrastructure
5 investment" and that are related to one or more of the
6 following:

7 (1) the installation of facilities to retire and
8 replace underground natural gas facilities, including
9 facilities appurtenant to facilities constructed of those
10 materials such as meters, regulators, and services, and
11 that are constructed of cast iron, wrought iron, ductile
12 iron, unprotected coated steel, unprotected bare steel,
13 mechanically coupled steel, copper, Cellulose Acetate
14 Butyrate (CAB) plastic, pre-1973 DuPont Aldyl "A"
15 polyethylene, PVC, or other types of materials identified
16 by a State or federal governmental agency as being prone to
17 leakage;

18 (2) the relocation of meters from inside customers'
19 facilities to outside;

20 (3) the upgrading of the gas distribution system from a
21 low pressure to a medium pressure system, including
22 installation of high-pressure facilities to support the
23 upgrade;

24 (4) modernization investments by a combination
25 utility, as defined in subsection (b) of Section 16-108.5
26 of this Act, to install:

1 (A) advanced gas meters in connection with the
2 installation of advanced electric meters pursuant to
3 Sections 16-108.5 and 16-108.6 of this Act; and

4 (B) the communications hardware and software and
5 associated system software that creates a network
6 between advanced gas meters and utility business
7 systems and allows the collection and distribution of
8 gas-related information to customers and other parties
9 in addition to providing information to the utility
10 itself;

11 (5) replacing high-pressure transmission pipelines and
12 associated facilities identified as having a higher risk of
13 leakage or failure or installing or replacing
14 high-pressure transmission pipelines and associated
15 facilities to establish records and maximum allowable
16 operating pressures;

17 (6) replacing difficult to locate mains and service
18 pipes and associated facilities; and

19 (7) replacing or installing transmission and
20 distribution regulator stations, regulators, valves, and
21 associated facilities to establish over-pressure
22 protection.

23 With respect to the installation of the facilities
24 identified in paragraph (1) of subsection (b) of this Section,
25 the natural gas utility shall determine priorities for such
26 installation with consideration of projects either: (i)

1 integral to a general government public facilities improvement
2 program or (ii) ranked in the highest risk categories in the
3 utility's most recent Distribution Integrity Management Plan
4 where removal or replacement is the remedial measure.

5 (c) Qualifying infrastructure investment, defined in
6 subsection (b) of this Section, recoverable through a tariff
7 authorized by subsection (a) of this Section, shall not include
8 costs or expenses incurred in the ordinary course of business
9 for the ongoing or routine operations of the utility,
10 including, but not limited to:

11 (1) operating and maintenance costs; and

12 (2) costs of facilities that are revenue-producing,
13 which means facilities that are constructed or installed
14 for the purpose of serving new customers.

15 (d) Gas utility commitments. A natural gas utility that has
16 in effect a natural gas surcharge tariff pursuant to this
17 Section shall:

18 (1) recognize that the General Assembly identifies
19 improved public safety and reliability of natural gas
20 facilities as the cornerstone upon which this Section is
21 designed, and qualifying projects should be encouraged,
22 selected, and prioritized based on these factors; and

23 (2) provide information to the Commission as requested
24 to demonstrate that (i) the projects included in the tariff
25 are indeed qualifying projects and (ii) the projects are
26 selected and prioritized taking into account improved

1 public safety and reliability.

2 (3) The amount of qualifying infrastructure investment
3 eligible for recovery under the tariff in the applicable
4 calendar year is limited to the lesser of (i) the actual
5 qualifying infrastructure plant placed in service in the
6 applicable calendar year and (ii) the difference by which
7 total plant additions in the applicable calendar year
8 exceed the baseline amount, and subject to the limitation
9 in subsection (g) of this Section. A natural gas utility
10 can recover the costs of qualifying infrastructure
11 investments through an approved surcharge tariff from the
12 beginning of each calendar year subject to the
13 reconciliation initiated under paragraph (2) of subsection
14 (e) of this Section, during which the Commission may make
15 adjustments to ensure that the limits defined in this
16 paragraph are not exceeded. Further, if total plant
17 additions in a calendar year do not exceed the baseline
18 amount in the applicable calendar year, the Commission,
19 during the reconciliation initiated under paragraph (2) of
20 subsection (e) of this Section for the applicable calendar
21 year, shall adjust the amount of qualifying infrastructure
22 investment eligible for recovery under the tariff to zero.

23 (4) For purposes of this Section, "baseline amount"
24 means an amount equal to the utility's average of total
25 depreciation expense, as reported on page 336, column (b)
26 of the utility's ILCC Form 21, for the calendar years 2006

1 through 2010.

2 (e) Review of investment.

3 (1) The amount of qualifying infrastructure investment
4 shall be shown on an Information Sheet supplemental to the
5 surcharge tariff and filed with the Commission monthly or
6 some other time period at the option of the utility. The
7 Information Sheet shall be accompanied by data showing the
8 calculation of the qualifying infrastructure investment
9 adjustment. Unless otherwise ordered by the Commission,
10 each qualifying infrastructure investment adjustment shown
11 on an Information Sheet shall become effective pursuant to
12 the utility's approved tariffs.

13 (2) For each calendar year in which a surcharge tariff
14 is in effect, the natural gas utility shall file a petition
15 with the Commission to initiate hearings to reconcile
16 amounts billed under each surcharge authorized pursuant to
17 this Section with the actual prudently incurred costs
18 recoverable under this tariff in the preceding year. The
19 petition filed by the natural gas utility shall include
20 testimony and schedules that support the accuracy and the
21 prudence of the qualifying infrastructure investment for
22 the calendar year being reconciled. The petition filed
23 shall also include the number of jobs attributable to the
24 natural gas surcharge tariff as required by rule. The
25 review of the utility's investment shall include
26 identification and review of all plant that was ranked

1 within the highest risk categories in that utility's most
2 recent Distribution Integrity Management Plan.

3 (f) The rate of return applied shall be the overall rate of
4 return authorized by the Commission in the utility's last gas
5 rate case.

6 (g) The cumulative amount of increases billed under the
7 surcharge, since the utility's most recent delivery service
8 rate order, shall not exceed an annual average 4% of the
9 utility's delivery base rate revenues, but shall not exceed
10 5.5% in any given year. On the effective date of new delivery
11 base rates, the surcharge shall be reduced to zero with respect
12 to qualifying infrastructure investment that is transferred to
13 the rate base used to establish the utility's delivery base
14 rates, provided that the utility may continue to charge or
15 refund any reconciliation adjustment determined pursuant to
16 subsection (e) of this Section.

17 (h) If a gas utility obtains a surcharge tariff under this
18 Section 9-220.3, then it and its affiliates are excused from
19 the rate case filing requirements contained in Sections
20 9-220(h) and 9-220(h-1). In the event a natural gas utility,
21 prior to the effective date of this amendatory Act of the 98th
22 General Assembly, made a rate case filing that is still pending
23 on the effective date of this amendatory Act of the 98th
24 General Assembly, the natural gas utility may, at the time it
25 files its surcharge tariff with the Commission, also file a
26 notice with the Commission to withdraw its rate case filing.

1 Any affiliate of such natural gas utility may also file to
2 withdraw its rate case filing. Upon receipt of such notice, the
3 Commission shall dismiss the rate case filing with prejudice
4 and such tariffs and the record related thereto shall not be
5 the subject of any further hearing, investigation, or
6 proceeding of any kind related to rates for gas delivery
7 services. Notwithstanding the foregoing, a natural gas utility
8 shall not be permitted to withdraw a rate case filing for which
9 a proposed order recommending a rate reduction is pending. A
10 natural gas utility shall not be permitted to withdraw the gas
11 delivery services tariffs that are the subject of Commission
12 Docket Nos. 12-0511/12-0512 (cons.). None of the costs incurred
13 for the withdrawn rate case are recoverable from ratepayers.

14 (i) The Commission shall promulgate rules and regulations
15 to carry out the provisions of this Section under the emergency
16 rulemaking provisions set forth in Section 5-45 of the Illinois
17 Administrative Procedure Act, and such emergency rules shall be
18 effective no later than 30 days after the effective date of
19 this amendatory Act of the 98th General Assembly.

20 (j) This Section is repealed December 31, 2023.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."